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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	13

Application Number	10/806,253
Filing Date	March 22, 2004
First Named Inventor	David C. BAULCOMBE
Art Unit	1635
Examiner Name	J. Pitrak
Attorney Docket Number	616292000110

ENCLOSURES (*Check all that apply*)

- [] Fee Transmittal Form
- [] Fee Attached
- [x] Amendment/Reply (9 pages)
- [] After Final
- [] Affidavits/declaration(s)
- [] Extension of Time Request
- [] Express Abandonment Request
- [] Information Disclosure Statement
- [] Certified Copy of Priority Document(s)
- [] Reply to Missing Parts/ Incomplete Application
- [] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [] Drawing(s)
- [] Licensing-related Papers
- [] Petition
- [] Petition to Convert to a Provisional Application
- [] Power of Attorney, Revocation Change of Correspondence Address
- [] Terminal Disclaimer
- [] Request for Refund
- [] CD, Number of CD(s) _____
- [] Landscape Table on CD
- [] After Allowance Communication to TC
- [] Appeal Communication to Board of Appeals and Interferences
- [] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [] Proprietary Information
- [] Status Letter
- [x] Other Enclosure(s) (please Identify below):

Disclosure of Assertion of Inventorship (3 pages); Exhibits 1-4

Remarks

Customer No. 25225

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MORRISON & FOERSTER LLP		
Signature	/Kate H. Murashige/		
Printed name	Kate H. Murashige		
Date	May 9, 2008	Reg. No.	29,959

Docket No.: 616292000110
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: David C. BAULCOMBE et al.	
Application No.: 10/806,253	Confirmation No.: 1920
Filed: March 22, 2004	Art Unit: 1635
For: GENE SILENCING	Examiner: Jennifer S. Pitrak

DISCLOSURE OF ASSERTION OF INVENTORSHIP

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants wish to notify the Office that Lionel Scott, the former Patent Manager of the assignee, has asserted inventorship in the present application to the extent that claims may be interpreted to read on silencing genes in "diagnostic or therapeutic" contexts in other than in plants and nematodes. The documents in applicants' possession related to this assertion are as follows:

Exh. 1. A letter from Lionel Scott to the undersigned sent by e-mail on 13 December 2007.

Exh. 2. E-mail correspondence from Mr. Scott urging a response to the letter.

Exh. 3. A letter sent by the undersigned to Mr. Scott by e-mail on 4 March 2008 along with its attachments.

Exh. 4. A follow-up letter to Mr. Scott sent 7 March 2008 by e-mail.

The undersigned has spoken twice with Mr. Scott by telephone and Mr. Scott remains adamant that the inclusion of organisms other than plants and nematodes in the specification entitles him to co-inventorship on any claims that could be construed to cover gene silencing in these organisms. Applicants' position is that, as Patent Manager of the assignee, the inclusion of organisms in the application as stated in paragraph 9 of Exhibit 1, was in any event contemplated by the named inventors and was within the scope of the obligation of a patent professional or a person employed by the assignee charged with oversight of the patent preparation, filing and prosecution process and does not rise to the level of invention.

Two further points are noted. First, Exhibit 4 is not directly relevant to the inventorship issue; it is included because it has been made clear to the undersigned that Mr. Scott's claim to inventorship is, at least in part, motivated by a desire to participate in any proceeds that might be obtained by virtue of this technology.

Second, applicants note that MPEP § 2137.01(I) states that the party or parties executing an oath or declaration under 37 C.F.R. § 1.63 are presumed to be the inventors. Applicants note that the wording of the declaration submitted in this application states "I believe I am an original first and joint inventor…"

Applicants request a response as to whether, in light of the MPEP section just quoted, the declaration on file is sufficient to create the presumption that the named inventors are the only inventors in the case or whether an additional declaration refuting inventorship by Mr. Scott would be needed to establish this presumption.

This communication and these documents are submitted in all pending cases referenced in Mr. Scott's e-mail of 13 December 2007. It is noted that 11/390,519 is abandoned; the claims in

11/013,469 are restricted to plants. Mr. Scott does not reference 10/806,253 but this communication is filed in that case as well.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 616292000110.

Respectfully submitted,

Dated: May 9, 2008

By: / Kate H. Murashige /

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